

Amendments to Senate Bill No. 125  
1st Reading Copy

Requested by Senator David Wanzenried

For the Senate Judiciary Committee

Prepared by Valencia Lane  
January 18, 2007 (7:11am)

1. Title, line 13.

**Strike:** "AND"

**Following:** "46-14-312,"

**Insert:** "AND 53-21-127,"

2. Page 3, line 30 through page 4, line 1.

**Following:** "medication" on line 30

**Strike:** remainder of line 30 through "treatment" on page 4, line 1

**Insert:** "facilitates effective treatment and, considering less intrusive alternatives, the involuntary medication is necessary to protect the safety of the defendant or others"

3. Page 8, line 29 through line 30.

**Following:** "medication" on line 29

**Strike:** remainder of line 29 through "treatment" on line 30

**Insert:** "facilitates effective treatment and, considering less intrusive alternatives, the involuntary medication is necessary to protect the safety of the defendant or others"

4. Page 10, line 13 through line 14.

**Following:** "medication" on line 13

**Strike:** remainder of line 13 through "treatment" on line 14

**Insert:** "facilitates effective treatment and, considering less intrusive alternatives, the involuntary medication is necessary to protect the safety of the defendant or others"

5. Page 11, line 2 through line 3.

**Following:** "medication" on line 2

**Strike:** remainder of line 2 through "treatment" on line 3

**Insert:** "facilitates effective treatment and, considering less intrusive alternatives, the involuntary medication is necessary to protect the safety of the defendant or others"

6. Page 11, line 22 through line 23.

**Following:** "medication" on line 22

**Strike:** remainder of line 22 through "treatment" on line 23

**Insert:** "facilitates effective treatment and, considering less intrusive alternatives, the involuntary medication is necessary to protect the safety of the defendant or others"

7. Page 13, line 3.

Following: line 2

Insert: "Section 7. Section 53-21-127, MCA, is amended to read:

"53-21-127. **Posttrial disposition.** (1) If, upon trial, it is determined that the respondent is not suffering from a mental disorder or does not require commitment within the meaning of this part, the respondent must be discharged and the petition dismissed.

(2) If it is determined that the respondent is suffering from a mental disorder and requires commitment within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing must be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent.

(3) At the conclusion of the disposition hearing and pursuant to the provisions in subsection (7), the court shall:

(a) subject to the provisions of 53-21-193, commit the respondent to the state hospital or to a behavioral health inpatient facility for a period of not more than 3 months;

(b) commit the respondent to a community facility or program or to any appropriate course of treatment, which may include housing or residential requirements or conditions as provided in 53-21-149, for a period of:

(i) not more than 3 months; or

(ii) not more than 6 months in order to provide the respondent with a less restrictive commitment in the community rather than a more restrictive placement in the state hospital if a respondent has been previously involuntarily committed for inpatient treatment in a mental health facility and the court determines that the admission of evidence of the previous involuntary commitment is relevant to the criterion of predictability, as provided in 53-21-126(1)(d), and outweighs the prejudicial effect of its admission, as provided in 53-21-190; or

(c) commit the respondent to the Montana mental health nursing care center for a period of not more than 3 months if the following conditions are met:

(i) the respondent meets the admission criteria of the center as described in 53-21-411 and established in administrative rules of the department; and

(ii) the superintendent of the center has issued a written authorization specifying a date and time for admission.

(4) Except as provided in subsection (3)(b)(ii), a treatment ordered pursuant to this section may not affect the respondent's custody or course of treatment for a period of more than 3 months.

(5) In determining which of the alternatives in subsection (3) to order, the court shall choose the least restrictive

alternatives necessary to protect the respondent and the public and to permit effective treatment.

(6) The court may authorize the chief medical officer of a facility or a physician designated by the court to administer appropriate medication involuntarily if the court finds that ~~involuntary medication is necessary to protect the respondent or the public or to facilitate effective treatment~~ facilitates effective treatment and, considering less intrusive alternatives, the involuntary medication is necessary to protect the safety of the patient or others. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility or a physician designated by the court approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility or program. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board of visitors and the director of the department of public health and human services must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The director shall report to the governor on an annual basis.

(7) Satisfaction of any one of the criteria listed in 53-21-126(1) justifies commitment pursuant to this chapter. However, if the court relies solely upon the criterion provided in 53-21-126(1)(d), the court may require commitment only to a community facility or program or an appropriate course of treatment, as provided in subsection (3)(b), and may not require commitment at the state hospital, a behavioral health inpatient facility, or the Montana mental health nursing care center.

(8) In ordering commitment pursuant to this section, the court shall make the following findings of fact:

(a) a detailed statement of the facts upon which the court found the respondent to be suffering from a mental disorder and requiring commitment;

(b) the alternatives for treatment that were considered;

(c) the alternatives available for treatment of the respondent;

(d) the reason that any treatment alternatives were determined to be unsuitable for the respondent;

(e) the name of the facility, program, or individual to be

responsible for the management and supervision of the respondent's treatment;

(f) if the order includes a requirement for inpatient treatment, the reason inpatient treatment was chosen from among other alternatives;

(g) if the order commits the respondent to the Montana mental health nursing care center, a finding that the respondent meets the admission criteria of the center and that the superintendent of the center has issued a written authorization specifying a date and time for admission; and

(h) if the order includes involuntary medication, the reason involuntary medication was chosen from among other alternatives."

{ Internal References to 53-21-127:

OK 2-16-503	OK 27-2-401	OK 27-8-204	OK 37-3-323
OK 37-6-311	OK 37-11-321	OK 37-12-322	OK 41-5-1504
OK 53-21-104	OK 53-21-121	OK 53-21-123	OK 53-21-126
OK 53-21-128	OK 53-21-128	OK 53-21-132	OK 53-21-140
OK 53-21-149	OK 53-21-151	OK 53-21-152	OK 53-21-181
OK 53-21-193	OK 53-21-195	OK 53-21-195	OK 53-21-197
OK 53-21-197	OK 53-21-198	OK 53-21-198	OK 53-21-198
OK 53-21-414	OK 70-19-413	OK 70-29-113	OK 70-29-210

OK 70-29-328} "

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